

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

October 30, 2015

TO: Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdcc.ca.gov)
Brad McCrea, Regulatory Program Director (415/352-3615; brad.mccrea@bcdcc.ca.gov)

SUBJECT: Staff Report and Recommendation on Support Letter for the South San Francisco Bay Shoreline Study
(For Commission consideration on November 5, 2015)

Summary and Recommendations

The staff recommends that the Commission authorize the Commission's Chair to sign the attached letter stating the Commission's support in principle for the South San Francisco Bay Shoreline Study being proposed by the California Coastal Conservancy, Santa Clara Water District and the U.S. Army Corps of Engineers (Army Corps), which would provide flood risk management, ecosystem restoration, and recreational opportunities.

Report

Letter of Support. Typically, federally funded development proposals are reviewed by BCDC through its consistency review process pursuant to the Coastal Zone Management Act (CZMA) after proposals receive Congressional Authorization and are deemed a "project" by the Administration. However, at this stage in the process, the South San Francisco Bay Shoreline Study is not yet deemed a project because it has not received Congressional Authorization. The U.S. Army Corps of Engineers requested that BCDC demonstrate support for the proposal now by sending a letter that states, in principle, that the proposal is generally consistent with the enforceable policies of BCDC's Coastal Management Program as contained in the Commission's laws and policies.

On September 17, 2015, the Commission received a briefing on the South Bay Shoreline Study and discussed options for expedited BCDC review. Options included review of a full Consistency Determination or a Phased Consistency Determination pursuant to the federal Coastal Zone Management Act (CZMA) to be submitted by the Army Corps at a later date, and consideration of a letter of support from the Commission regarding the proposed development. At its September 17, 2015 meeting, the Commission expressed its willingness to consider any of these approaches.

The BCDC staff believes that the attached support letter would allow the Army Corps to continue working on the development proposal, but reserves the Commission's ability to formally consider a Consistency Determination for the project when adequate project detail is available. Therefore, the staff recommends that the Commission authorize the Chair to sign the attached letter with any minor revisions as needed for clarity and accuracy.

Phased Consistency Determination. In addition to requesting the letter, the Army Corps submitted a Phased Consistency Determination on October 30, 2015, the date of this staff report. Since staff has not yet had time to review the submittal and there is some risk that the consistency review process may not conclude as needed by the Army Corps prior to its December deadline for a signed Chief's Report (the final Administration action prior to a Congressional Authorization to construct the project), the staff believes that the support letter has some independent utility for representing to the Administration that progress has been made on CZMA coordination.

Project Background. The project sponsors are proposing to construct flood risk management levees to: (1) protect the community of Alviso and the adjacent San Jose-Santa Clara Regional Wastewater Facility; (2) fill areas immediately bayward of the constructed levees to create sloping ecotones which will facilitate tidal marsh restoration and create transitional habitat; (3) breach existing outer dikes to restore tidal habitats in existing ponds; and (4) provide recreation features.

The flood risk management levee will provide tidal flood risk management benefits to a population of about 6,000 residents and people working in the area and will provide flood protection from a one-percent annual chance of flooding through the end of the 50-year period of analysis. It also includes sea level rise under the Army Corps high sea level rise scenario. Additionally, this project will tie into the surrounding flood risk management projects, which also provide protection from a one-percent annual chance of flooding from tributaries.

The project will also create approximately 2,900 acres of tidal marsh and transitional ecotone habitat in the Alviso Pond Complex and City of San Jose-owned Pond A18. The restored habitat will contribute to the Don Edwards National Wildlife Refuge (Refuge) and benefit salt marsh harvest mouse and California Ridgeway's rail (formally called the Clapper Rail), which are endangered species. Finally, the project will provide recreation opportunities in the project area, which will tie into surrounding recreational facilities, including the Bay Trail and Refuge.

The proposed project is closely interrelated, and in some cases overlaps, with the ongoing implementation of the South Bay Salt Pond Restoration Project (SBSRP). The planning process for the Shoreline Phase I Study is being coordinated with the SBSRP actions, as both efforts have similar flood risk management, ecosystem restoration, and recreation objectives.

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November 6, 2015

Mr. Thomas Kendall
Chief of Planning
U.S. Army Corps of Engineers
1455 Market Street, 17th Floor
San Francisco, CA 94103

SUBJECT: BCDC Support for the South San Francisco Bay Shoreline Project

Dear Mr. Kendall:

Thank you for the San Francisco District of the U.S. Army Corps of Engineers' (USACE) request that the San Francisco Bay Conservation and Development Commission (BCDC) support the flood risk management and ecosystem restoration project proposed by the USACE's South San Francisco Bay Shoreline Study. The project is described in the draft Chief's Report and Integrated Report sent to BCDC in September, was the subject of a briefing before our Commission on September 17, 2015, and has been the center of many detailed discussions between the project proponents and BCDC staff.

As the proposed project would be constructed by the federal government, with some local and state funding, BCDC will require the USACE to submit a Consistency Determination for review and approval by the Commission under the federal Coastal Zone Management Act (CZMA) prior to commencing any work on the ground. Based on decades of past practice and experience, the staff and Commission believe that it would be most prudent for the USACE to submit its Consistency Determination during the project's Pre-Construction Engineering & Design (PED) phase.

While that is the case, on November 5, 2015, on a vote of [XX-YY], the Commission requested that I send you this letter to demonstrate its support for the project in principle because its successful completion will greatly benefit the region's shoreline resilience and habitat. The Commission viewed the project purpose, at this phase, as being generally consistent with the enforceable policies of the Coastal Management Program (CMP) as contained in the McAtteer-Petris Act and in the San Francisco Bay Plan. The Commissioners look forward to BCDC's formal review and action under the CZMA during the PED phase, during which more information will be available for BCDC to review as the Corps demonstrates complete compliance with the CMP.

The Bay Plan encourages converting salt ponds to tidal and subtidal habitats and designing ecosystem restoration and flood risk management features that provide for, and are adaptable to, a projected rise in sea level. The USACE project proposes to incorporate these attributes and its proposed ecotone would provide important habitat and ecosystem resilience. The Bay Plan requires that the public have access to the Bay shoreline, and the project would promote such access by proposing to fill a gap in the Bay Trail.

It is worthwhile to note that the Commission previously has unanimously approved at least two horizontal levees to create transition zones, upland habitat, and areas where marsh can move inland with rising sea level, first at Max Keech Properties (Permit No. 2007.005) and then at Sonoma Creek (Consistency Determination No. C2014.004.00). The Commission plans to analyze this project in light of its efforts to make the Bay's shoreline more resilient to expected rising sea level; it has consistently supported appropriate efforts to do so in the past. I hope this letter clarifies the Commission's position on this important proposal. Please be assured that we very much look forward to working with you to complete this very important project.

If you have any further questions, please contact Bob Batha of our staff at 415-352-3612, or by email at bob.batha@bcdc.ca.gov. Of course, you can always contact me directly, as well.

Sincerely,

R. ZACHARY WASSERMAN
Chair

References:

BCDC (1979). Management Program for San Francisco Bay. San Francisco Bay Conservation and Development Commission (prepared with financial assistance from the Office of Coastal Zone

Management, National Oceanic and Atmospheric Administration, under the provisions of the Federal Coastal Zone Management Act of 1972, as amended).

BCDC (2008). San Francisco Bay Plan. San Francisco Bay Conservation and Development Commission.